**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PACKET INTELLIGENCE LLC,

Plaintiff,

v.

NETSCOUT SYSTEMS, INC.,
TEKTRONIX COMMUNICATIONS and
TEKTRONIX TEXAS, LLC,

Defendants.

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NO. 2:16-cv-00230-JRG

**DECLARATION OF JOHN P. CURTIN IN SUPPORT OF NETSCOUT'S OPPOSITION
TO PACKET INTELLIGENCE'S MOTION FOR AN ONGOING ROYALTY**

I, John P. Curtin, declare as follows:

1.   I have personal knowledge of the matters set forth herein.

2.   I reside in Richardson, Texas. I am currently employed by NetScout Systems, Inc ("NetScout") as a Director. I earned a Bachelor's degree in Computer Engineering from Texas A&M University in 1999. After graduating from Texas A&M, I went to work at Ericsson, Inc. as a software engineer and stayed there for nearly seven years. In 2006, I joined Tektronix Communications ("Tektronix") as a software engineer and, in 2010, was promoted to the position of software architect. I became a NetScout employee as a result of its acquisition of Tektronix in 2015. In total, I have worked for Tektronix and NetScout for more than a decade.

3.   During my tenure at Tektronix and NetScout, the focus of my work has been on network monitoring devices known as "probes." Probes are physical devices with processing power, memory, and software that can be connected to a data network and used to monitor data traffic flowing across the network. Among the probes I worked on are the GeoProbe G10 and GeoBlade products (collectively, the "GeoProbe products"). The GeoProbe products were originally designed, developed, marketed, and sold by Tektronix. The G10 was introduced in November 2009, and the GeoBlade was introduced in February 2015. The G10 and GeoBlade are evolutions of an earlier an GeoProbe model, which was released by Tektronix in 1998 and was primarily designed to monitor voice networks, such as those operated by AT&T and Verizon."

4.   In addition to the GeoProbe products, Tektronix designed, manufactured and sold an application and graphical user interface system called "Iris." The Iris system was originally developed for the GeoProbe products and enables telephone carriers to analyze specific calls and

data transactions occurring over a network to, for example, troubleshoot failed calls or network performance issues.

5.   I am knowledgeable about the technical features and operation of the GeoProbe products. I am knowledgeable about the hardware that is used in the products, including which processors and chips are used in these products to parse, analyze, and classify packets carried in the data plane. As a software engineer, I am also knowledgeable about the software that enables the core network monitoring capabilities of these probes, including how the software works at the code level for parsing, analyzing, and classifying packets carried in the data plane.

6.   After the acquisition of Tektronix by NetScout in 2015, the scope of my work expanded to include other probe products—namely, the InfiniStream probes—that were originally developed by NetScout prior to the acquisition of Tektronix. I was not at NetScout when the InfiniStream probes were first developed and introduced, but I understand that they were developed many years prior to the Tektronix acquisition. The InfiniStream probes are based on technology and software that NetScout designed and developed independently of Tektronix.

7.   I know about the latest probe in the InfiniStream product line, which is called "InfiniStreamNG." The "NG" stands for "Next-Generation," and sometimes this probe is referred to by the acronym "ISNG." In approximately July 2015, I joined the team that was working on the ISNG probe. This team focused on expanding the functionality of the existing InfiniStream probe in order to support the same user-facing applications that were supported by our other products. I was responsible for designing and implementing certain software components that could be added to the existing InfiniStream product in order to create the ISNG

product. As such, I know about the overall hardware and software architecture of the ISNG

product currently being offered by NetScout.

8.   The ISNG product is latest generation of the InfiniStream product line. The ISNG

probe is based on the software platform used in the existing InfiniStream probe, which was

developed by NetScout long before the acquisition of Tektronix in 2015. The ISNG probe

includes additional software components for metadata conversion that are used to support certain

optional user-facing applications, such as those provided by the Iris system. The Iris system

originally was developed for the GeoProbe products and enabled telephone carrier customers to

view and analyze specific calls and data transactions occurring over a network to troubleshoot

failed calls and/or network performance issues.

9.   I understand that Packet Intelligence has filed a motion for an ongoing royalty in

which it asserts that the ISNG probe uses the same data traffic classification software and

hardware as the accused GeoProbe products. Packet Intelligence's assertion is false. Data traffic

classification software and hardware existed in the InfiniStream products prior to NetScout's

acquisition of Tektronix. The software that provides this functionality in the InfiniStream

products was developed by NetScout years prior to the Tektronix acquisition in 2015. To create

the ISNG probe, NetScout did not remove data traffic classification hardware or software from

the existing InfiniStream products, and we did not use any hardware or software from the

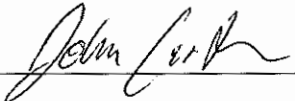GeoProbe products for these aspects of ISNG.

10.   The only way that GeoProbe software was used in the design of the ISNG probe

was to create software that would support an optional feature called "Geo Mode." One of my

responsibilities was to design and implement the Geo Mode feature in the ISNG product. Geo

Mode does not classify data packets carried in the data plane, such as regular website data. What

Geo Mode does is enable metadata produced from network traffic captured by the ISNG product, using the original Infinistream software, to be fed to the Iris system. Geo Mode was designed to allow telephone carriers using InfiniStream probes to monitor their networks to display data in a manner that would be useful for call tracing and troubleshooting.

11.   In addition, I understand that Packet Intelligence's expert, Dr. Almeroth, asserted that the "EZ Chip" and "Cavium" processor in the GeoProbe products provided functionality that met certain claim limitations. The ISNG does not have an EZChip processor, and does not use any of the same software that is executed by the EZChip processor in the GeoProbe products. The ISNG also does not have a "Cavium processor," and does not (and cannot) use any of the same software that is executed by the Cavium processor in the GeoProbe products to perform data traffic classification.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 27th day of November, 2017, in Plano, Texas.

Dated: November 27, 2017   By: _John Curt_____

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